

PCT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43b/s.1)

Date of mailing

(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/B2004/000884

International filing date (day/month/year)
28.01.2004

Priority date (day/month/year)
28.01.2003

International Patent Classification (IPC) or both national classification and IPC
B44C5/04, B44F9/02, E04F15/10

Applicant
FAUS GROUP

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☒ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☒ Box No. IV Lack of unity of invention
- ☐ Box No. V Reasoned statement under Rule 43b/s.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1 b/s(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**International application No.
PCT/B2004/000884**Box No. I Basis of the opinion**

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material:
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing:
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**International application No.
PCT/IB2004/000884**Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability**

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

- ☐ the entire international application,
☒ claims Nos. 1-47

because:

- ☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (*specify*):
- ☒ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 1-47 are so unclear that no meaningful opinion could be formed (*specify*):
- see separate sheet
- ☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.
- ☐ no international search report has been established for the whole application or for said claims Nos.
- ☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:
- the written form ☐ has not been furnished
☐ does not comply with the standard
- the computer readable form ☐ has not been furnished
☐ does not comply with the standard
- ☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-*bis* of the Administrative Instructions.
- ☐ See separate sheet for further details

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**International application No.
PCT/B2004/000884**Box No. IV Lack of unity of invention**

1. ☒ In response to the invitation (Form PCT/ISA/206) to pay additional fees, the applicant has:
 - ☒ paid additional fees.
 - ☐ paid additional fees under protest.
 - ☐ not paid additional fees.
2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rule 13.1, 13.2 and 13.3 is
 - ☐ complied with
 - ☒ not complied with for the following reasons:
see separate sheet
4. Consequently, this report has been established in respect of the following parts of the international application:
 - ☒ all parts.
 - ☐ the parts relating to claims Nos.

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/IB2004/000884**Re Item III.****1. First invention:****1.1 Clarity:****1.1.1**

The application does not meet the requirements of Article 6 PCT, because independent claims 1, 16 and 33 as well as dependent claims 17 to 30 and 34 to 43 are not clear. Consequently, also the further dependent claims 2 to 15, 31 and 32 do not fulfil the requirements of Article 6 PCT.

1.1.2 Independent claims 1, 16 and 33:**1.1.2.1**

The embodiments of the invention described in the description in paragraphs [0001] and [0011] to [0017] do not fall within the scope of the independent claims 1, 16 and 33. This inconsistency between the claims and the description leads to doubt concerning the matter for which protection is sought, thereby rendering the claims 1, 16 and 33 unclear, Article 6 PCT.

1.1.2.2

Although claims 1 and 33 have been drafted as separate independent claims, they appear to relate effectively to the same subject-matter and to differ from each other only with regard to the definition of the subject-matter for which protection is sought and/or in respect of the terminology used for the features of that subject-matter. The aforementioned claims 1 and 33 therefore lack conciseness and as such do not meet the requirements of Article 6 PCT.

1.1.2.3

Claim 16 comprises all the features of claim 1 and is therefore not appropriately formulated as a claim dependent on the latter (Rule 6.4 PCT).

1.1.3 Dependent claims 17 to 30 and 34 to 43:

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The term: "... plank according to claim ..." used in claims 17 to 30 and 34 to 43 is vague and unclear and leaves the reader in doubt as to the meaning of the technical features to which it refers, thereby rendering the definition of the subject-matter of said claims 17 to 30 and 34 to 43 unclear, Article 6 PCT. The back reference of the feature: "plank" is not clear, because the related independent claims 16 and 33 define a "flooring system" or a "floor panel" instead of a "plank".

1.2 Novelty / inventive step:

Independent claims 1, 16 and 33 seem to lack inventive step pursuant to Article 33 PCT with regard to a combination of the disclosure of document D1 (= WO-A-03/006232), which is regarded to represent the most relevant state of the art, together with the disclosure of document D2 (= GB-A-2 345 269).

2. Second invention:

2.1 Clarity:

2.1.1

The application does not meet the requirements of Article 6 PCT, because Independent claims 44 to 47 are not clear.

2.1.2

Although claims 44 to 47 have been drafted as separate independent claims, they appear to relate effectively to the same subject-matter and to differ from each other only with regard to the definition of the subject-matter for which protection is sought and/or in respect of the terminology used for the features of that subject-matter. The aforementioned claims 44 to 47 therefore lack conciseness and as such do not meet the requirements of Article 6 PCT.

2.1.3

The "summary" of the invention described in paragraphs [0014] to [0020] does not fall within the scope of the independent claims 44 to 47. This inconsistency between the

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claims and the description leads to doubt concerning the matter for which protection is sought, thereby rendering the claims 44 to 47 unclear, Article 6 PCT.

2.2 Novelty / Inventive step:

Independent claim 44 seems to lack novelty with regard to either document D4 (= US-A-2 108 226) or document D5 (= US-A-4 131 705).

Re Item IV.**1. The separate inventions of inventions are:**

Claims 1 to 43:

Flooring planks having decorative patterns

Claims 44 to 47:

Floor tiles having non-coplanar upper surfaces

2. They are not so linked as to form a single general inventive concept (Rule 13.1 PCT) for the following reasons:

A flooring plank having a specific arrangement of edge patterns and bulk patterns according to the essential features of the first invention as defined in independent claims 1, 16 and 33 does not necessarily have at least two non-coplanar upper surfaces according to the essential feature of the second invention as defined in independent claims 44 to 47 nor vice versa.

3. So, it is obvious for the person skilled in the art that there does not exist a link between both inventions as required by Rule 13.1 PCT, which must be a technical relationship finding expression in all independent claims in terms of the same or corresponding special technical features.

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